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ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
841 Chestnut Building  
Philadelphia, Pennsylvania 19107

SEP 1 1993

**GENERAL NOTICE LETTER**  
**URGENT LEGAL MATTER: PROMPT REPLY NECESSARY**  
**CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

Harold A. Wagner, President  
Air Products and Chemicals, Inc.  
7201 Hamilton Boulevard  
Allentown, PA 18195-1501

Re: **Standard Chlorine Superfund Site**  
**Delaware City, Delaware**

Dear Mr. Wagner:

This letter notifies you that you may incur, or may have incurred, liability under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9607(a), with respect to the Standard Chlorine of Delaware Superfund Site ("Site"). This letter also notifies you of potential response activities at the Site, which you may be asked to perform or pay for at a later date if EPA performs them.

**BACKGROUND**

CERCLA, more commonly known as Superfund, was enacted in 1980, reauthorized and amended in 1986, and reauthorized again in 1990. CERCLA has several key objectives, including setting priorities for cleanup of the worst hazardous sites in the country, and determining the parties potentially responsible for investigating, cleaning up or paying the costs of cleaning up such hazardous sites. These parties are referred to as "potentially responsible parties" or "PRPs".

On July 1, 1987, the United States Environmental Protection Agency ("EPA") included the Site on the National Priorities List ("NPL"), a list of the most serious uncontrolled or abandoned sites at which releases of hazardous substances have occurred or may occur.

AR200539

## NOTICE OF YOUR POTENTIAL LIABILITY

EPA has evaluated information in connection with the investigation of the Site. Based on this information, EPA believes that you may be a PRP for this Site. PRPs under CERCLA include: 1) current owners and operators of the site; 2) owners and operators of the site at the time hazardous substances are disposed; 3) persons who arranged for disposal or treatment of hazardous substances sent to the site; and 4) persons who accepted hazardous substances for transport to the site, and who selected the site for disposal. These categories are set forth in Section 107 of CERCLA, 42 U.S.C. § 9607.

Based on State and Federal records and/or other information, EPA has information indicating that Air Products and Chemicals, Inc. is a PRP for this Site. Specifically, EPA has reason to believe that Air Products and Chemicals, Inc. owns a portion of the property where Standard Chlorine of Delaware, Inc. stockpiled soils and sediments contaminated with chlorinated benzenes. These contaminated soils and sediments were excavated and placed into three waste piles as a response action to a Standard Chlorine of Delaware 1986 release of approximately 400,000 gallons of paradichlorobenzene and 169,000 gallons of trichlorobenzene.

The EPA has documented the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site, as those terms are defined in Sections 101(14) and 101(33) of CERCLA, 42 U.S.C. §§ 9601(14) and (33). EPA has spent, or is considering spending, public funds on actions to investigate and control such releases or threatened releases at the Site. Unless EPA reaches an agreement under which a PRP or PRPs will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, or require them to be performed by responsible parties under Section 106 of CERCLA, 42 U.S.C. § 9606.

EPA may order PRPs, or any one of them, to perform response actions deemed necessary by EPA to protect the public health, welfare or the environment. Additionally, PRPs may be liable for all costs incurred by the government in responding to any release or threatened release at the Site, under Sections 104 and 107(a) of CERCLA, 42 U.S.C. §§ 9604 and 9607(a), and the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6901 et seq., and other laws. Such actions and costs may include, but are not limited to, expenditures for conducting a Remedial Investigation/Feasibility Study ("RI/FS"), conducting a Remedial Design/Remedial Action ("RD/RA"), and other investigation, planning, response, oversight, and enforcement activities related to the Site. In addition, potentially responsible parties may be required to pay for damages for injury to, destruction of, or loss of natural resources, including the cost of assessing the amount or extent of such damages related to a site.

You should also be aware that once a site is placed on the NPL pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, it

AR200540

cannot be deleted until after an RI/FS has been completed and the necessary remedial action has been conducted in accordance with EPA guidance and the National Contingency Plan ("NCP"), published at 40 C.F.R. Part 300.

By this letter, EPA notifies Air Products and Chemicals, Inc. of Air Products and Chemicals, Inc. potential liability with regard to this matter and encourages you to perform or to finance voluntarily those response activities that EPA determines to be necessary at the Site.

#### SITE RESPONSE ACTIVITIES

In accordance with CERCLA and other authorities, EPA has already undertaken certain actions and incurred certain costs in response to conditions at the Site. Standard Chlorine of Delaware has entered into a Consent Order with the Delaware Department of Natural Resources and Environmental Control ("DNREC") to complete a Remedial Investigation/Feasibility Study (RI/FS) of the Site. The Study is near completion.

At present, EPA is planning to issue a Record of Decision in November 1993. EPA may expend additional funds for response activities at the Site under the authority of CERCLA and other laws.

#### SPECIAL NOTICE AND NEGOTIATION MORATORIUM

EPA anticipates that you will receive an additional notice from EPA in the future concerning this Site. The following four paragraphs are a detailed description of that future notice. You do not need to take any specific action regarding this future notice at this time. The description is provided to you here so that you can anticipate and understand the process.

The future notice will either inform you that EPA is using the CERCLA Section 122(e) special notice procedure to formally negotiate terms of a consent order or consent decree to conduct or to finance Site response activities, or it will inform you that EPA is electing not to utilize that procedure. If EPA does not use the Section 122(e) special notice procedure, the notice will specify why special notice was not considered appropriate in this case.

Under Section 122(e), EPA has discretionary authority to use the special notice procedure if EPA determines that such procedure would facilitate an agreement between EPA and the PRPs and would expedite response action at the Site. Use of this special notice procedure triggers a moratorium on certain EPA activities at the Site. The purpose of the moratorium is to provide a period of time when PRPs and EPA may enter into formal

AR200541

negotiations for PRP conduct or financing of the response activities at the Site.

The initial moratorium period, during which EPA will not initiate implementation of the RI/FS, lasts for 60 days after receipt of special notice. If EPA determines that a good faith offer to perform or to finance the RI/FS is submitted by the PRPs within those 60 days, the statute provides a 30-day extension for further negotiations. With regard to this Site, however, the RI/FS is nearing completion. Following completion of the RI/FS, the second moratorium period during which EPA will not initiate response activities occurs with regard to the RD/RA. The RD/RA moratorium also lasts for 60 days after the RD/RA special notice. If EPA determines that a good faith offer is submitted by the PRPs within those 60 days, the statute provides a 60-day extension for further negotiations.

If EPA determines that a good faith offer has not been submitted within the first 60 days of any moratorium period, EPA may terminate the negotiation moratorium pursuant to Section 122(e)(4) of CERCLA. EPA then may commence response activities or enforcement actions as it deems appropriate. In the absence of an agreement with the parties to perform or to finance the necessary response activities, EPA may undertake these activities and pursue civil litigation against the parties for reimbursement of Site expenditures. Alternatively, EPA may issue a unilateral administrative order pursuant to Section 106(a) of CERCLA to require PRPs to initiate response activities, and/or may commence civil litigation pursuant to Section 106(a) of CERCLA to obtain similar relief. Failure to comply with an administrative order issued pursuant to Section 106(a) of CERCLA may result in a fine of up to \$25,000 per day, pursuant to Section 106(b) of CERCLA, and/or imposition of treble damages, pursuant to Section 107(c)(3).

The preceding explanation of special notice and the negotiation moratorium procedure, is for your general information about the Superfund process. It does not require any specific action on your part at this time. (But see PRP Response and EPA Contact Section, below.)

#### INFORMATION TO ASSIST RESPONSIBLE PARTIES

EPA encourages good faith negotiations between the PRPs and EPA, as well as among the PRPs. Therefore, EPA is providing the following information as an Attachment to this letter: a list of the names and addresses of PRPs to whom this notification is being sent or who have previously been notified. This list represents EPA's preliminary findings on the identities of the PRPs for this Site. Inclusion on, or exclusion from, the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of

AR200542

hazardous substances at or from the Site.

#### ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. §9613(k), EPA establishes an administrative record that contains documents which form the basis for EPA's decision on the selection of each response action for a site. The administrative record will be available to the public for inspection and comment before any remedy is selected by EPA. The record for this Site may be reviewed at the following locations:

Delaware Department of Natural Resources and  
Environmental Control  
715 Grantham Lane  
New Castle, Delaware, 19720  
(302) 323-4540

and

U.S. EPA Docket Room  
Region III  
841 Chestnut Building  
Philadelphia, PA 19107  
(215) 597-8913

Upon completion of the public comment period on the Proposed Plan for the Site and EPA's review of the comments, EPA will select the remedy for the Site. The selection of the remedy will be documented in a Record of Decision (ROD), which will also become part of the administrative record.

#### FRP RESPONSE AND EPA CONTACT

You are encouraged to contact EPA in writing by August 20, 1993 to express your willingness or unwillingness to participate in future negotiations concerning this Site. Your response will be considered by EPA in determining whether the special notice procedure should be used for this Site.

If you are already involved in discussions with State or local authorities, engaged in voluntary action or involved in a lawsuit regarding this Site, you should not interpret this letter as advising or directing you to restrict or to discontinue any such activities. You should, however, report the status of those discussions or activities in your letter to EPA. Please provide EPA with a copy of your letter to any other party involved in those discussions.

Your response should be addressed to:

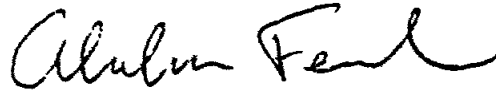
AR200543

Katherine A. Lose (3HW42)  
Remedial Project Manager  
EPA Region III  
841 Chestnut Bldg.  
Philadelphia, PA 19107

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be, and cannot be relied upon, as a final Agency position on any matter set forth herein.

If you have any questions regarding the foregoing, please contact Katherine Lose at (215) 597-0910. Legal questions can be referred to Sarah Keating at (215) 597-0814.

Sincerely,



Abraham Ferdas, Associate Division  
Director for Superfund Programs  
Hazardous Waste Management Division

Enclosure

cc: Katherine A. Lose, EPA  
Sarah Keating, EPA  
Diane Ajl, EPA  
Peter Ludzia, EPA  
Kathryn Hodgkiss, EPA  
Joan Armstrong, EPA  
Anne Hiller, DNREC

AR200544

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☒ Restricted Delivery

Consult postmaster for fee.

**3. Article Addressed to:**

Harold W. Wagner  
Air Products & Chemicals  
7201 Hamilton Blvd.  
Allentown PA 18195-1561

**4a. Article Number**

P 095 874 890

**4b. Service Type**

- |                                       |   |
|---------------------------------------|---|
| <input type="checkbox"/> Registered   | <input type="checkbox"/> Insured                        |
| <input type="checkbox"/> Certified    | <input type="checkbox"/> COD                            |
| <input type="checkbox"/> Express Mail | <input type="checkbox"/> Return Receipt for Merchandise |

**7. Date of Delivery**

7/23

**5. Signature (Addressee)****8. Addressee's Address (Only if requested and fee is paid)****6. Signature (Agent)**

PS Form 3841, November 1990 \* U.S. GPO: 1991-267-006

**DOMESTIC RETURN RECEIPT**

AR200545